

**United States District Court**  
**EASTERN DISTRICT OF TEXAS**  
**SHERMAN DIVISION**

SECURITIES AND EXCHANGE  
COMMISSION

v.

JAMES G. TEMME and STEWARDSHIP  
FUND, LP

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CASE NO. 4:11-CV-655  
Judge Clark/Judge Mazzant

**MEMORANDUM OPINION AND ORDER**

Pending before the Court are Defendant's Objections to Declaration of Keith Miles Aurzada and Motion to Strike (Dkt. #222), Objection to and Motion to Strike Portions of the Declaration of Keith Willingham (Dkt. #240), and Objection to and Motion to Strike the Declaration of John Henry (Dkt. #241).

In separate Report and Recommendation issued contemporaneously with this Order, the Court recommended that Plaintiff's motion for summary judgment be denied because Plaintiff failed to meet its burden to show that there are no issues of material fact and that it was entitled to judgment as a matter of law. In light of this recommendation, the Court finds that these three motions to strike either party's summary judgment evidence are moot in light of the Court's recommendation.<sup>1</sup>

**CONCLUSION**

Based on the foregoing, the Court finds Defendant's Objections to Declaration of Keith Miles Aurzada and Motion to Strike (Dkt. #222), Objection to and Motion to Strike Portions of

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<sup>1</sup> The Court thoroughly reviewed all motions to strike. After reviewing Plaintiff's motions, the Court determined that there is merit to some of the arguments made by Plaintiff and the Court would have granted some of the relief requested. Specifically, the Court would have stricken the declaration of John Henry and its exhibit, as well as portions of the declaration of Keith Willingham. However, striking this evidence would not change the result of the Court's recommendation on the motion for summary judgment, as there are still existing issues of material fact that must be resolved by a jury. As such, the motions are moot.

the Declaration of Keith Willingham (Dkt. #240), and Objection to and Motion to Strike the Declaration of John Henry (Dkt. #241) are **DENIED** as moot.

**IT IS SO ORDERED.**

**SIGNED this 2nd day of January, 2014.**

  
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AMOS L. MAZZANT  
UNITED STATES MAGISTRATE JUDGE